mation, containing approximately 85 per cent of the formation's known oil shale reserves.[3] Because of the great expense of entry into this new industry, private enterprise needs some assurance that these reserves will be made available for commercial development. Thus, the federal government holds the key to unlocking the benefits of this great resource.

Oil shale has recently received increasing attention in the press,[4] in the courts,[5] and in Congress.[6] Such attention is even reaching the proportions of sensationalism. In the first session of the present 89th Congress Senator Douglas of Illinois introduced a measure which read: "A Bill to Retire the National Debt with Royalties from Publicly-owned Oil Shale Land."[7] This proposal has predictably enraged many in the western states.[8]

As a result, there is an increased public awareness that, while this natural resource awaits development, clearer and clearer battle lines are being drawn between "Big Business" and "Big Government." Representatives of the petroleum, mining and chemical industries are asking that private enterprise be given the opportunity to develop oil shale.[9] Others suggest that oil shale should be developed, if at all, by a governmentally owned and operated monopoly.[10]

The federal oil shale lands are presently under the administration of the Department of Interior. Disposition and leasing of these lands could be done today by the Secretary of Interior. But the prospects for such affirmative action by him are poor. "Delay" has been the only recognizable "policy" to come out of the Interior Department in years.[11]

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[3] Estimates vary as to the proportion of federal ownership depending upon the geographic limits used in defining the Green River Formation. John B. Tweedy, counsel for The Oil Shale Corporation (TOSCO), (speaking at the University of Colorado Law School in November, 1965) estimates that 64% of the surface containing 84% of the oil reserves of the Green River Formation lies in the Public Domain, with 21.8% of the surface containing 10% of the reserves on patented lands, and 13.5% of the surface containing 4.9% of the reserves on unpatented and presently contested lands.

In Senate Hearings it was claimed that approximately "70% of the deposits in the Green River formation, containing some 80% of the oil is on land owned by the Federal Government." *Hearings on Oil Shale Before the Senate Committee on Interior and Insular Affairs*, 89th Cong., 1st Sess. 3 (1965).

The Department of Interior, reporting on the oil shale policy problem said:

"To date, investigations of Utah's oil-shale deposits have not been nearly as comprehensive as those of the Colorado deposits, and the deposits in Wyoming have been explored least of all. . . .

"Of the entire 1,300,000 acres of land in the oil-shale area in Colorado, 582,000 acres (including Naval Reserves) are federally-owned, 380,000 are privately-owned, and 338,000 are lands in unpatented mining claims. Approximately 1,000,000 acres are underlain by oil-shale deposits and the remainder is contiguous non-shale bearing land, principally the areas of stream valleys between oil-shale outcrops. Virtually all of the central portion of the Piceance Creek Basin is federally-owned land. Federal oil shale averaging at least 25 gallons per ton and 15 feet or more thick probably average about 1,000 feet in thickness, where the shale of this grade on privately-owned land probably averages a little over 100 feet.

"Of this previously mentioned 1.3 trillion barrels of oil in deposits containing 10 gallons or more of oil in the Piceance Creek Basin the privately-owned oil shale represents about 100 billion barrels of shale oil and the unpatented mining claims represent about 100 billion barrels. The remaining lands are federally-owned and contain deposits of about 1.1 trillion barrels in place. Based upon a shale grade of 25 gallons per ton the oil potential would be half of these quantities."

DEP'T. INTERIOR SYNOPSIS, THE OIL SHALE POLICY PROBLEM 21–22 (1964).

[4] Duscha, "Bonanza in Colorado—Who Gets It?," Atlantic Monthly, Mar., 1966.

[5] The legal status of unpatented and administratively contested oil shale claims made under the Federal mining laws is being adjudicated in several cases presently pending before Judge Doyle of the Federal District Court, Denver, Colorado. The principle "test" case is The Oil Shale Corp. v. Udall, Civil Docket No. 8680, which is now in the pre-trial stage. This case, along with numerous similar ones accompanying it in the District Court, seeks a mandamus directing the Secretary of the Interior to discharge his duties under the Mineral Leasing Act of 1920 and to withdraw invalid administrative decisions cancelling rights to, or denying patents to, unpatented claims. Alternatively the plaintiffs seek a declaratory judgment interpreting the mining laws. Defendant's motion to dismiss has been denied. See also, Reidy, *Do Unpatented Mining Claims Exist?*, 43 DENVER L.J. 9 (1966); and Lohr, *Conclusiveness of United States Oil Shale Placer Mining Claim Patents*, 43 DENVER L.J. 35 (1966).

[6] 112 CONG. REC. 4901 (daily ed. Mar. 7, 1966) (remarks of Senator Dominick). Also, *Senate Hearings on Oil Shale, supra* note 3.

[7] S. 2708, 89th Cong., 1st Sess. (1965).

[8] Wyoming State Tribune, Oct. 25, 1965 (editorial), p. 5.

[9] Reistle, *supra* note 1.

[10] Duscha, *supra* note 4.

[11] See *Senate Hearings on Oil Shale, supra* note 3, at 36. See Ely in *Conservation of Oil and Gas*, ABA SECT. M & NRL 303 (Sullivan ed. 1958). See also, The Denver Post, Mar. 20, 1965, "The Dispute Over Oil Shale," p. 9, where James H. Smith, Jr., of Aspen, Colorado, a nationally recognized leader in economic development, decries the delay in the development of oil shale.